

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

CONTRACT SECURITY FORCES, LLC,

Plaintiff,

v.

Civil Action No. 1:17-cv-00814-LO-TCB

PHILADELPHIA INDEMNITY
INSURANCE COMPANY,

Defendant.

**MOTION TO DISMISS AND, IN THE
ALTERNATIVE, TO TRANSFER VENUE**

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), Defendant Philadelphia Indemnity Insurance Company (“PIIC”), by counsel, moves to dismiss Contract Security Forces, LLC’s (“CSF’s”) Complaint for Declaratory Judgment, For Preliminary and Permanent Injunctive Relief, and for Monetary Damages (the “Complaint”). In the alternative, in the event that its Motion to Dismiss is denied, PIIC moves pursuant to 28 U.S.C. § 1404 to transfer the matter to the United States District Court for the District of Maryland. In support of its motion, PIIC states as follows:

1. PIIC issued a policy of insurance, Policy No. PHPK1472249 (the “Policy”), to CSF for the policy period March 25, 2016 to March 25, 2017. (A true and accurate copy of the Policy was attached to the Complaint as Exhibit 1.)

2. On or about March 3, 2017, *Simmons and Green v. Apple, Inc.*, Civil Case No. 8:17-CV-617 (the “Apple Litigation”) was filed in the United States District Court for the District of Maryland. (A true and accurate copy of the Apple Litigation was attached to the Complaint as Exhibit 2.)

3. On August 2, 2017, the United States District Court for the District of Maryland dismissed the Apple Litigation. (A true and accurate copy of the Memorandum Opinion in the Apple Litigation is attached hereto as Exhibit 1.)

4. In the absence of the Apple Litigation, this matter is not justiciable because there no longer is a controversy between PIIC and CSF. The Complaint should be dismissed pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure for lack of subject matter jurisdiction.

5. The allegations of the Apple Litigation also do not fall within the insuring agreement of the Policy. They do not allege even a possibility of a “suit” against CSF. Nor do they allege even a possibility of sums that CSF could “legally be obligated to pay as damages.” The Complaint should be dismissed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim.

6. In the alternative, should this matter survive PIIC’s Motion to Dismiss, it should be transferred pursuant to 28 U.S.C. § 1404 to the United States District Court for the District of Maryland where the Apple Litigation was filed and the events giving rise to that litigation occurred.

WHEREFORE, Philadelphia Indemnity Insurance Company, by counsel, prays that the Court dismiss this matter with prejudice; in the alternative, transfer this matter to the United States Court for the District of Maryland; and grant such other and further relief as the Court may deem appropriate.

Respectfully submitted,

PHILADELPHIA INDEMNITY
INSURANCE COMPANY

By Counsel

COUNSEL:

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of August, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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